

proceeding with a Consent Order. A Consent Order must be signed by the Director and the person who is its subject, or a duly authorized representative, must indicate agreement to the terms contained therein and must be filed. A Consent Order need not constitute an admission by any person that the Act or a DOE Nuclear Safety Requirement has been violated, nor need it constitute a finding by the DOE that such person has violated the Act or a DOE Nuclear Safety Requirement. A Consent Order shall, however, set forth the relevant facts which form the basis for the Order and what remedy, if any, is imposed.

(c) *Effect on enforcement adjudication.* If a Consent Order is signed after the commencement of an enforcement adjudication, the adjudication of the issues subject to the Consent Order shall be stayed until the completion of the Secretarial Review Process. If the Consent Order becomes a Final Order, the adjudication shall be terminated or modified as specified in the Order.

(d) *Secretarial review.* A Consent Order shall become a Final Order 30 days after it is filed unless the Secretary files a rejection of the Consent Order or a Modified Consent Order. A Modified Consent Order shall become a Final Order if the Director and the person who is its subject sign it within 15 days of its filing.

**§ 820.24 Preliminary notice of violation.**

(a) If the Director has reason to believe a person has violated or is continuing to violate a provision of the Act or a DOE Nuclear Safety Requirement, he may file a Preliminary Notice of Violation. The Notice and any transmittal documents shall contain sufficient information to fairly apprise the respondent of the facts and circumstances of the alleged violations and the basis of any proposed remedy, and to properly indicate what further actions are necessary by or available to respondent.

(b) Within 30 days after the filing of a Preliminary Notice of Violation, the respondent shall file a reply.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a statement of all rel-

evant facts pertaining to the situation that is the subject of the Notice. The reply shall state any facts, explanations and arguments which support a denial that a violation has occurred as alleged; demonstrate any extenuating circumstances or other reason why the proposed remedy should not be imposed or should be mitigated; and furnish full and complete answers to the questions set forth in the Notice. Copies of all relevant documents shall be submitted with the reply. The reply shall include a discussion of the relevant authorities which support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE.

(d) The respondent may terminate an enforcement action if the reply agrees to comply with the proposed remedy and waives any right to contest the Notice or the remedy. If a respondent elects this option, the Preliminary Notice of Violation shall be deemed a Final Order upon the filing of the reply.

**§ 820.25 Final notice of violation.**

(a) *General rule.* If, after reviewing the reply submitted by the respondent, the Director determines that a person violated or is continuing to violate a provision of the Act or a DOE Nuclear Safety Requirement, he may file a Final Notice of Violation. The Final Notice shall concisely state the determined violation, any designated penalty, and further actions necessary by or available to respondent.

(b) *Effect of final notice.* (1) If a Final Notice of Violation does not contain a civil penalty, it shall be deemed filed as a Final Order 15 days after the Final Notice is filed unless the Secretary files a Final Order which modifies the Final Notice.

(2) If a Final Notice of Violation contains a civil penalty, the respondent must file within 30 days after the filing of the Final Notice:

- (i) A waiver of further proceedings;
- (ii) A request for an on-the-record adjudication; or
- (iii) A notice of intent to seek judicial review.

(c) *Effect of waiver.* If a respondent waives further proceedings, the Final Notice of Violation shall be deemed a